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Multiple Citizenship, Identity and Entitlement in Canada

Audrey Macklin and François Crépeau

Canadian law should continue to allow multiple citizenship, which reflects the country's growing diversity and the changing nature of identity

La législation canadienne devrait continuer à autoriser les citoyennetés multiples, qui sont un reflet de la diversité croissante et de l'évolution de la notion d'identité au pays.

Diversité, immigration et intégration
Diversity, Immigration and Integration

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Summary

Canada's recognition of dual citizenship in 1978 followed earlier moves by the United Kingdom and France (among other countries). The forces of globalization validate the wisdom of this policy. Many individuals maintain meaningful connections to more than one state. The global trend toward acknowledging this reality through acceptance of multiple citizenship is both irreversible and salutary. At the same time, it is legitimate for the state to promote civic participation among its members and to encourage citizens to contribute to the social, economic and cultural enrichment of Canada. The role of legal citizenship as an incentive or guarantor of these objectives is important but narrow. Legal rules for acquiring, retaining and transmitting legal status (including multiple citizenship) are intrinsically limited in their capacity to identify, judge and reward "good" members or punish "bad" members.

We survey the sources of popular anxiety around multiple citizenship and focus on two recurrent objections regarding claims by dual citizens outside Canada to legal rights associated with citizenship. The first objection is that because nonresident citizens do not live in Canada, they do not demonstrate the appropriate degree of commitment to Canada. The second is that since nonresident citizens do not pay taxes, they are not entitled to claim the rights of citizenship. We respond to these claims as follows: First, very few legal rights attach to citizenship. Access to public health care, most social benefits and education all depend on provincial residence, not citizenship. Second, Canada already restricts the exercise of the franchise by Canadians abroad more than many other states. Third, consular assistance is, by definition, only sought by citizens abroad. For reasons of principle and practicality, we counsel against discriminating between mono- and dual or multiple citizens for purposes of extending consular assistance in what are often emergency situations. Finally, proposals to require nonresident citizens to pay tax as a precondition to maintaining the rights of citizenship are ill-conceived. The United States is the only country that requires nonresident citizens to pay tax on worldwide income, but in practice the law creates several exceptions to the requirement to pay and is both complicated and expensive to administer. It is not a model to emulate.

Citizenship law amendments in 2009 restrict the future acquisition of Canadian citizenship by descent, and thereby indirectly circumscribe the pool of future dual citizens. In our view, the 2009 amendments do little to advance the objective of ensuring a meaningful connection between Canada and its citizens, and risk creating unnecessary difficulties in a number of personal situations. However, we endorse a clarification to the current law to require three years of physical presence in Canada as a prerequisite for naturalization, which we believe may facilitate the development of a strong commitment to Canada among prospective citizens.

Résumé

Le Canada a reconnu la double citoyenneté en 1978 à la suite d'autres pays comme la France et le Royaume-Uni. Depuis, l'avancée de la mondialisation a confirmé le bien-fondé de cette politique. Nombreux sont en effet les individus qui ont des liens significatifs avec plus d'un pays. La tendance générale consistant à reconnaître cette réalité par le biais de la citoyenneté multiple est donc aussi avisée qu'irréversible. Parallèlement, il est légitime pour un État de promouvoir la participation civique et d'inciter ses citoyens à contribuer à l'enrichissement social, économique et culturel du pays. Pour favoriser ces objectifs, le rôle de la citoyenneté est important, mais demeure restreint. Car les règles de droit liées à l'acquisition, à la conservation et à la transmission d'un statut juridique (y compris la citoyenneté multiple) permettent rarement d'identifier, de juger et de récompenser les « bons » citoyens ou de punir les « mauvais ».

Cette étude examine les craintes que la citoyenneté multiple suscite dans l'opinion publique, notamment les deux principales objections à l'encontre des citoyens à double nationalité vivant hors du Canada qui réclament des droits égaux rattachés à la citoyenneté. Selon la première objection, ces citoyens non résidents manifestent à l'égard du Canada un engagement insuffisant. Selon la seconde, ils ne peuvent réclamer les droits liés à la citoyenneté puisqu'ils ne paient pas d'impôts. La réponse à ces objections est formulée en quatre points. Premièrement, très peu de droits légaux découlent de la citoyenneté : c'est le fait de résider dans une province et non la citoyenneté qui donne accès au système de santé public, à l'éducation et à la plupart des avantages sociaux. Deuxièmement, le Canada restreint déjà plus que d'autres États l'exercice de la citoyenneté des Canadiens vivant à l'étranger. Troisièmement, l'assistance consulaire est par définition uniquement sollicitée par les citoyens vivant à l'étranger. Or, pour des raisons tant pratiques que de principe, il faut rejeter toute distinction entre citoyens à nationalité simple, double ou multiple afin d'étendre l'accès à cette assistance dans des situations qui sont souvent urgentes. Quatrièmement, les propositions visant à exiger des citoyens non résidents qu'ils paient des impôts pour conserver les droits liés à la citoyenneté sont injustifiées. Les États-Unis sont le seul pays qui exige que ses citoyens non résidents paient des impôts sur les revenus touchés à l'étranger. Mais la loi américaine est complexe et coûteuse à administrer, et comprend plusieurs exceptions ; elle n'est donc pas un exemple à suivre.

Les modifications apportées en 2009 à la *Loi sur la citoyenneté* limitent la transmission de la citoyenneté par filiation et restreignent donc indirectement le bassin des futurs citoyens à double nationalité. Elles ne favorisent pas le resserrement des liens entre le Canada et ses citoyens, et risquent de compliquer inutilement de nombreuses situations personnelles. Toutefois, une précision à la loi actuelle qui établirait comme condition préalable à la naturalisation une présence effective de trois ans au Canada pourrait raffermir l'engagement des futurs citoyens canadiens envers leur pays et serait donc bienvenue.

Multiple Citizenship, Identity and Entitlement in Canada

Audrey Macklin and François Crépeau

This study seeks to contribute to current discussions about multiple citizenship in three ways. First, we situate Canadian policy on multiple citizenship within global trends. Second, we explore the content of citizenship as a legal status and its relationship to other conceptions of citizenship. Third, we use the preceding analysis to critically assess recent revisions of the current Canadian citizenship law in relation to dual or multiple citizenship. We examine the roles of residence and fiscal contribution as indicators of what makes citizenship "meaningful" in functional terms as demarcating a state's responsibility to citizens or, alternatively, as defining the responsible citizen.

Scratch beneath the surface of any debate about dual citizenship[1] and you will quickly expose an array of questions about the nature of citizenship itself. What is it? Why does it matter and how much should it matter? Who is and who ought to be entitled to obtain it, retain it and transmit it? Opinions about multiple citizenship presuppose certain answers to these questions, often tacitly and sometimes unconsciously. In order to meaningfully reflect on multiple citizenship, one must first arrive at an understanding of the legal status of citizenship.

Canadian law has permitted multiple citizenship since 1977. The amendment to citizenship law in that year elicited virtually no comment when introduced and rarely attracted attention subsequently. It has, however, become more salient in the public arena over the last decade, especially after the events of September 11, 2001. Controversy erupted around Canada's responsibility toward dual citizens outside Canada; the exercise by dual citizens in Canada of rights in the other country of citizenship; and, exceptionally, the dual citizenship of Canadian public officials. The 2006 evacuation of Canadian-Lebanese citizens from Lebanon during the Israel-Hezbollah conflict exemplifies the first issue; the entitlement of Canadian-Italian citizens residing in Canada to hold seats in the Italian government raises the second; and the dual citizenship of Governor General Michaëlle Jean and former Liberal Leader Stéphane Dion illustrates the third.

This Canadian debate takes place as some other countries are also revising their citizenship policies in a restrictive way.[2] This may appear paradoxical at a time when globalization is increasing human mobility, thereby enhancing the opportunities for, and desirability of, multiple citizenship. It may appear less paradoxical, however, when one considers the intense and often acrimonious debates surrounding immigration, integration and multiculturalism that abound in settler societies such as Canada, the United States and Australia and in Old World European states that are still grappling with the reality that they too are countries of immigration. These controversies illustrate an increasing uncertainty about what it means to be a national of one's country. Certainly, after 9/11 and the London and Madrid bombings and with the media's tendency to link migration, radicalism and violence, political actors have deployed

various discursive and policy tools to respond to — and sometimes mobilize — collective anxiety. Restricting acquisition of nationality or access to multiple nationality may be promoted as a way of enhancing national cohesion and assuaging fears of fragmentation of identity.

Recent Canadian examples of this restrictive impulse include the 2009 amendments to the Canadian *Citizenship Act*,[3] which contract transmission of citizenship by descent, and the newly revised Canadian citizenship guide, which is meant to educate prospective Canadians about Canadian history, politics and society. Many applauded the guide's expanded attention to Canadian history and to Aboriginal peoples. Beyond that, specific choices made by the government about what to emphasize (military honours), what to omit (recognition of same-sex marriage as a human rights achievement) and what to convey to prospective future citizens (a warning that any "barbaric" practices they may import with them will not be tolerated) reflect a particular normative vision of Canada, Canadians and immigrants (Citizenship and Immigration Canada 2010).

One seldom encounters anymore the broad claim that Canada should simply abolish dual or multiple citizenship.[4] Indeed, few states in practice exhibit an absolutist position in relation to dual citizenship. Actually prohibiting dual citizenship would entail the following consequences:

- Immigrants to Canada would be required to renounce other nationalities as a prerequisite to obtaining Canadian citizenship.
- Canadian citizens who naturalize in another country would automatically relinquish Canadian nationality.
- Dual citizens by birth would have to surrender their other citizenship(s) at some point in order to retain Canadian citizenship.

Leaving aside principled reasons for rejecting multiple citizenship, significant obstacles preclude effective monitoring and enforcement in circumstances other than the naturalization of immigrants. This may partly explain why most recent proposals regarding multiple citizenship revolve around retracting or conditioning the entitlements of dual or multiple citizens who do not reside in Canada.

Our position can be summarized by the following propositions. First, it is a social reality that many individuals maintain meaningful connections to more than one state. The global trend toward acknowledging this reality through acceptance of multiple citizenship is both irreversible and salutary. Second, it is legitimate for the state to promote civic participation among its members, and to encourage citizens to contribute to the social, economic and cultural enrichment of Canada. The role of legal citizenship as an incentive or guarantor of these objectives is important but narrow. Legal rules for acquiring, retaining and transmitting legal status (including multiple citizenship) are inherently limited in their capacity to identify, adjudicate and reward "good" members or to punish "bad" members. Third, policies that would permit further deviations from the principle of equal citizenship on the basis of residence (i.e., treating differently citizens who reside in Canada and citizens who reside abroad) require justification and should be approached cautiously. Finally, recent amendments to the

rules for the future acquisition of Canadian citizenship by descent do little to advance the objective of ensuring a meaningful connection between Canada and its citizens. However, we do propose a clarification to the current law prescribing the residence requirement for naturalization, which we believe may encourage prospective Canadian citizens to develop a meaningful connection to Canada.

Multiple Citizenship in Comparative Perspective

Acquisition of citizenship

People can acquire citizenship in two ways: at birth and by naturalization. Birthright citizenship is transmitted by descent from a citizen (*jus sanguinis*, or "law of blood") or by birth on the territory of the state conferring citizenship (*jus soli*, or "law of soil"). All states currently allow citizen parents to pass their citizenship on to children, and some states continue to differentiate the legal consequences depending on whether the parent is the mother or the father (CRTD 2004). States also vary in the number of generations across which one can transmit citizenship by descent. For example, a person who has a great-great-grandparent who was an Italian national may be eligible for Italian citizenship. The US will confer citizenship by descent on a child born abroad to a US-citizen parent only if the parent has also resided in the country for five years before the child's birth. The United Kingdom applies the same rule but only to the second generation of citizen by descent. Until 2009, a child born abroad to a Canadian citizen who was herself born abroad acquired citizenship by descent, but could retain it only if he or she took steps by age 28 to manifest a continued affiliation to Canada, failing which measures, citizenship would automatically be lost. Thus, Canada conferred citizenship by descent on the second generation, contingent on the eventual demonstration of a connection to Canada (most obviously through a period of residence in Canada). Canada recently amended its citizenship law to limit transmission of Canadian citizenship by descent to the first generation. As a result, Canada's present rules for the transmission of citizenship by descent are more restrictive than those of the UK and restrictive in a way that is different from those of the US. Relatively few states provide for automatic and unconditional *jus soli* citizenship, but the exceptions include most New World states of the Americas, among them Canada, the US, Mexico, Brazil, Argentina, Venezuela and Chile. France has a "double *jus soli*" rule, whereby a child born in France to a parent who was also born in France automatically acquires French citizenship.

The UK, Ireland, Australia and Germany allow children born on the state's territory to acquire citizenship at birth only if one parent holds lawful resident status.[5] This hybrid citizenship rule combines territoriality and descent by conditioning citizenship on both territory of birth and parental status. It denies citizenship to children of nonstatus or temporary migrants, in part to deny the parents a claim to remaining in the country by virtue of their affiliation and responsibilities to citizen children.

At any given time during the past century, no more than 3 percent of the world's people were living outside their country of birth (UNFPA 2006, chap.1). This suggests that birthright citizenship is the sole mechanism of citizenship acquisition for 97 percent of humanity and, further, that most people are born to citizens of the state in whose territory they are born. In

other words, territoriality and descent overwhelmingly coincide and are reliable predictors of future residence. As such, one might plausibly understand the rules of birthright citizenship as imperfect predictors of an individual's future ties to a state. In practice, the rules will inevitably be underinclusive (a noncitizen who arrives in Jonquière as an infant and spends her entire life there is not thereby a citizen) and overinclusive (a person born in New York to a Canadian mother from Swift Current but who never sets foot in Canada is nonetheless a citizen). The "ideal" set of citizenship rules is open to debate, but it warrants emphasis that any attempt to more perfectly align the rules of citizenship acquisition and retention to actual connection to a country would be extraordinarily difficult to design and implement in a just and efficient manner. Persons born abroad constitute a significant segment of the population of various countries, though the proportion of individuals who hold citizenship varies according to the citizenship laws of each state. For example, the foreign-born constitute around 19 percent of the population in Canada, 24 percent in Australia, 12 percent in the US, 14 percent in Austria and 10 percent in the UK population (Migration Policy Institute Data Hub n.d.).

Naturalization confers citizenship on immigrants who meet the state's criteria for legal membership. The prerequisites typically include language proficiency, a minimum period of residence in the country, historical, geographic, cultural and political knowledge about the country, and police clearance.

The Universal Declaration on Human Rights guarantees to each person a right to nationality, but no right to any particular nationality. States are more or less free to adopt whatever citizenship laws they choose, and individuals who "fall through the cracks" wind up stateless, except to the extent that the state has ratified international conventions aimed at reducing and preventing statelessness.[6]

Various theories attempt to correlate particular features of a state to types of citizenship regimes.[7] One cogent version focuses on nineteenth-century European patterns of migration and empire building. It posits that historic countries of emigration emphasized citizenship by descent in order to encourage emigrants and their descendants to retain emotional, cultural and financial connections to the "homeland." Meanwhile, settler societies sought to promote nation building through the rapid incorporation of waves of immigrants. *Jus soli* citizenship advances the objective of integration by ensuring that the children of immigrants are automatically enrolled into membership in the nation. Imperial states, such as Britain and France, also had an interest in consolidating their empires by extending some form of membership to those born in colonial territory.

Beginning in the second half of the twentieth century, many of the emigrant states of Western Europe — Germany, Italy, the UK — transformed into countries of immigration. States were slow to admit that times had changed, as evinced by a significant time lag in the changes to citizenship law. For example, Germany received hundreds of thousands of "guest workers" from Turkey in the 1960s and 1970s. These German residents had children and even grandchildren who were born and raised in Germany, yet those German-born children could not acquire citizenship at birth. On the other hand, ethnic Germans residing in Eastern Europe

could automatically acquire citizenship by demonstrating a distant ancestor who was German. Only in 2000 did Germany enact legislation to restrict the transmission of citizenship by descent and to grant *jus soli* citizenship to children of lawful residents. The UK used to grant citizenship rights to all British subjects from anywhere in the world and to anyone born in the UK. It subsequently restricted nationality to descendants of UK citizens and to children born in the UK to lawful residents.

Another important shift in nationality laws in the last century occurred with the gradual demise of citizenship laws that discriminated on the basis of gender. The most common rules stripped a woman of citizenship if she married a foreigner (on the assumption that she would acquire the citizenship of her husband) or denied women the right to transmit their nationality to their children. Today, most countries (and all liberal democracies) enable women to retain and transmit citizenship on the same basis as men. The significance of this fact for dual or multiple citizenship is that it has multiplied the possibility of multiple citizenship by descent.

Acquisition of multiple citizenship

Absent a prohibition of multiple citizenship, the conferral of citizenship at birth and by naturalization can produce various dual or multiple citizenship outcomes. Consider the following scenarios:

- A baby born anywhere to a Swede and a Russian is a citizen of Sweden and Russia (*jus sanguinis* on both sides).
- A Canadian-born man who immigrates to Paraguay and naturalizes as a Paraguayan citizen is a citizen of Canada (*jus soli*) and Paraguay (naturalized).
- A baby born in the US to a single Australian tourist working "under the table" (without legal authorization) will be a citizen of the US (*jus soli*) and Australia (*jus sanguinis*).
- A baby born in Australia to a single US tourist working "under the table" will be a citizen of the US (*jus sanguinis*) but not of Australia.[8]
- A baby born to a French mother and a Bangladeshi father in Mexico is a citizen of Mexico (*jus soli*), France (*jus sanguinis*) and Bangladesh (*jus sanguinis*).

Given the various ways in which dual or multiple citizenship may arise, one descriptive point and one prescriptive point warrant emphasis. First, statistics about the number of dual or multiple citizens in Canada (as in most other countries) underestimate the total number of multiple citizens because they do not account for those who acquire multiple citizenships at birth (as opposed to naturalization) or for those birthright citizens who subsequently naturalize elsewhere. For example, Statistics Canada estimates that about 4 million immigrants to Canada who naturalized as citizens retained their original citizenship, but no one knows how many Canadians by birth also hold a citizenship elsewhere. No government has a systematic means of detecting the possession of other citizenships by its birthright citizens. Second, Canada (like many countries) adheres to a principle of equality of citizenship. Citizens are deemed equal in their status regardless of how they acquired citizenship. One implication is that any rule regarding the acquisition or retention of multiple citizenships must apply equally to birthright citizens and to naturalized citizens.[9] Another is that any rule that confers or withholds benefits normally attached to citizenship according to some other criterion requires justification.

The rise and spread of multiple citizenship

An oft repeated adage in defence of mono-citizenship is that a nation should "as soon tolerate a man with two wives as a man with two countries; as soon bear with polygamy as that state of double allegiance" (Bancroft quoted in Spiro 2002a, 24). The analogy to marriage captures an ideal of citizenship as a singular and primary relationship. Of course, the quick and easy rejoinder is that dual or multiple citizenship is better analogized as having more than one child, or more than one sibling. We do not generally consider that kinship relations are undermined or diluted by plurality. The point is that a metaphor is not an argument.

In the nineteenth century, a person's citizenship was seen as a lifelong "insoluble allegiance" (Faist 2007, 176), while toward the mid-twentieth century, citizenship came to be viewed more as an alterable trait. This evolution is commonly traced to the shifting ambit of international law, away from a focus on state sovereignty and toward a focus on inalienable human rights. As the rights of individuals took on greater importance relative to state interests, the intolerance of dual citizenship became harder to justify.

The earlier opposition to dual citizenship is reflected in the preamble of the Hague Convention on Certain Questions Relating to Nationality Laws, April 12, 1930, which stated in part that it "is in the general interest of the international community to have all its members acknowledge that every individual should possess one nationality and only one" (quoted in de la Pradelle 2002, 192).

A central concern in opposing dual citizenship was with divided military loyalties. In an era when citizens were directly called upon for military service, it seemed unwise to tolerate potentially competing allegiances. One assumes that ordinary citizens were content with the arrangement, for with dual citizenship would come dual conscription. A supplementary objection concerned international stability: The citizen of two nations, facing trouble with one, might call in the assistance of the other, triggering a conflict between nations (Spiro 2002a, 22-4; Staton, Jackson, and Canache 2007).[10]

The ubiquity of conscription and the prospect of an individual holding citizenship in two warring states made the concern concrete.[11] States receiving immigrants would require them to renounce their original citizenship in order to naturalize, and/or states experiencing emigration would revoke expatriates' citizenship if they naturalized elsewhere — if the states of emigration found out.

At least two developments fuelled the contemporary trend toward tolerance and acceptance of multiple citizenship. First, the numbers of dual citizens by birth increased as a by-product of the application of gender equality to nationality law. Women no longer relinquished their citizenship automatically upon marriage to foreign men, and so binational couples produced dual-nationality children. Second, not only did transnational migration resume and accelerate after the Second World War, but the capacity of migrants to maintain ongoing linkages to the country of origin was transformed by the relative decline in the cost of overseas travel and communication (airplane, telephone and Internet) and the thickening of diasporic networks.

The formal prohibition on dual citizenship denied but did not diminish the social and political impact of transnational migration, the rise of human rights, the challenge to gender discrimination and the increase in binational families. Western states gradually and desultorily abandoned the prohibition on dual citizenship. Britain did so in 1948. Canada followed suit 30 years later, in 1978. In the US, the peculiarly archaic text of the citizenship oath still requires the applicant to "absolutely and entirely renounce and abjure all allegiance and fidelity to any foreign prince, potentate, state, or sovereignty, of whom or which I have heretofore been a subject or citizen." However, the combined effect of US Supreme Court jurisprudence and administrative practice has led the US government to concede the de facto legality of multiple citizenship. The official position is stated as follows: "The U.S. Government recognizes that dual nationality exists but does not encourage it as a matter of policy because of the problems it may cause" (United States n.d.). States figured out ways to cooperatively manage potential conscription competition, and the issue is no longer viewed as an obstacle to dual or multiple citizenship.

In contrast to the 1930 Hague Convention's hostility toward dual citizenship, the preamble to the 1997 European Convention on Nationality illustrates the normalization of multiple citizenship within international law:

> *Noting the varied approach of States to the question of multiple nationality and recognising that each State is free to decide which consequences it attaches in its internal law to the fact that a national acquires or possesses another nationality;*
> *Agreeing on the desirability of finding appropriate solutions to consequences of multiple nationality and in particular as regards the rights and duties of multiple nationals;*
> *Considering it desirable that persons possessing the nationality of two or more States Parties should be required to fulfill their military obligations in relation to only one of those Parties.*[12]

The Progressive Acceptance of Multiple Citizenship in Canada

From British subject to "hyphenated" Canadian citizen

Canadian citizenship as a comprehensive legal status came into existence gradually. The *Constitution Act, 1867*, granted the federal government jurisdiction over "Naturalization and Aliens," but not over citizenship per se. After Confederation, Canadians remained, as Prime Minister John A. Macdonald put it, "a loyal band of British subjects" (quoted in Brodie 2002, 384), and the imperial Parliament retained authority to define British subjecthood. In the early twenthieth century, the Canadian Parliament did exercise its powers over naturalization, and in so doing enacted statutory definitions of Canadian citizenship. But this legislation was intended only to specify who could (and who could not) enter Canadian territory as of right; it did not specify the full range of rights and responsibilities attached to Canadian citizenship, nor did it displace British subjecthood.[13] Canadian citizenship, such as it was, existed only as a subset of British subjecthood, and only for limited purposes under immigration law. In the years leading up to the Second World War, a "patchwork of membership classes" emerged that included "aliens," British subjects of Canada (who had a right of entry into Canada only) and ordinary British subjects (who had status throughout the empire) (Bloemraad 2007, 163). In effect, a colonial hybrid form of overlapping supranational and national Canadian-British membership existed from this country's inception; it persists to this day in Britain, where UK residents who are citizens of Commonwealth countries may still vote in parliamentary and

local elections (Sear 2005). Contrast this with the US, where severance of the bond to Britain was a vital indicator of the rejection of colonial rule and where the expectation of singular allegiance flowed naturally from the founding moment of revolution (Bloemraad 2007, 160).[14]

The 1931 Statute of Westminster recognized Canada's independence from Britain, an event solidified by the performance of Canadian forces in the Second World War. In 1946, the Canadian Parliament enacted the *Canadian Citizenship Act*, which came into effect on January 1, 1947 (Bloemraad 2007, 93).[15] Canadian citizenship acquired autonomous legal existence, though Canadians also remained British subjects (Bloemraad 2007, 164). The *Canadian Citizenship Act* restricted but did not prohibit dual citizenship: It provided that Canadian citizenship would be lost if one voluntarily acquired citizenship in another country (Galloway 2000, 99). That restriction was removed with the enactment of the *Citizenship Act* in 1977, with apparently little debate in Parliament and scant attention in the media,[16] and Canada has since been wholly permissive of multiple citizenship. In retrospect, Canada emerged as a global leader in the trend toward accepting multiple citizenship. Looking back, it is surprising how uncontroversial these developments were within Canada at the time.

The rights and obligations linked to Canadian citizenship

What are the legal rights and obligations of the Canadian citizen? The rights are few in number, the obligations fewer still.

According to the Canadian Charter of Rights and Freedoms, only three rights are reserved to citizens: the democratic right to vote and to stand for election (section 3), the right to an education in a minority language (English or French, section 23) and the right to enter and remain in the country (section 6). Citizens have an unqualified right to enter and remain in Canada, but their right to exit may be restricted in very limited cases, such as when they have been charged but not yet tried for a criminal offence.

Only citizens may vote and stand for public office in Canada. Some European states, including Denmark, Ireland, Norway and the Netherlands, permit resident noncitizens to vote in local elections;[17] New Zealand, Chile and Malawi permit permanent residents to vote in national elections as well. As noted above, UK residents who are also citizens of the Commonwealth are permitted to vote in local and national elections. Canadian law permits citizens abroad to vote if they have resided outside Canada for less than five years and intend to return.[18] In contrast, nonresident US citizens may vote in US presidential elections forever. Italy not only permits nonresident citizens to vote in Italian elections; it reserves seats in its parliament for elected representatives of nonresident Italians.[19]

The rationale for restricting expatriate voting in Canadian elections is that it is unfair to give an equal voice in choosing how the state will be governed to those who, by virtue of residing abroad, do not live with the quotidian consequences of that choice. While expatriate citizens may legitimately insist that they are affected by the outcome of a national election, this version of the stakeholder argument proves too powerful. Arguably, everyone in the world is affected by the outcome of a US presidential election, yet few would demand that everyone

should thereby be entitled to cast a vote. A more modest argument in favour of expatriate voting is that citizens living outside their state of citizenship retain a stake in electoral choices made within that state. Through remittances and through nonfinancial means, they often contribute to the country and to the well-being of those who reside there.[20]

As the foregoing indicates, one cannot properly conduct crossnational comparisons of citizenship and voting without appreciating the interaction of several factors. Canada restricts the franchise to citizens, while making naturalization relatively easy and transmission of citizenship by descent relatively restrictive. Canada also circumscribes expatriate voting rights by reference to the duration of absence from Canada. Other states make different choices about birthright citizenship, naturalization, noncitizen franchise and expatriate voting.

It is commonly assumed that Canadian citizenship also entails a right to Canada's protection while abroad, but this claim is precarious at best. The government's position is that consular assistance, diplomatic protection and provision of a passport — government services formally reserved to citizens — are mere privileges that the state can confer on the citizens of its choice in the unfettered exercise of discretion. The constitutionality of the government stance has not been definitively considered. These services are arguably connected to the Charter right to life, liberty and security of the person under section 7, and also to the right of citizens under section 6 to enter and remain in Canada, since a citizen's ability to board an international flight and to re-enter Canada may be effectively negated if Canada refuses to issue the citizen a passport.[21] However, the government vigorously denies that Canadian citizens abroad are ever entitled as of right to any form of consular assistance or protection under any circumstances. The Supreme Court of Canada has not ruled on the issue, though one Federal Court judge remarked in passing that "Canadians abroad would be surprised, if not shocked, to learn that the provision of consular services in an individual case is left to the complete and unreviewable discretion of the Minister."[22]

Beyond the Charter provisions that guarantee specific benefits to citizens, laws outside the immigration context that distinguish between citizen and noncitizen are vulnerable to a complaint of discrimination in violation of the Charter's equality provision (section 15). The first case to reach the Supreme Court of Canada about the meaning of equality under section 15 involved a complaint of discrimination against a lawyer who was denied admission to the British Columbia bar because he was a permanent resident and not a Canadian citizen.[23] The Supreme Court of Canada found that discrimination on the basis of citizenship violated the Charter, partly because there was no obvious correlation between citizenship and the ability to perform the tasks and duties of a lawyer. A few years later, however, the Supreme Court upheld a law granting preferential consideration to Canadian citizens applying for employment in the federal civil service. The Court ruled that the preference did violate the Charter's equality guarantee. However, it ruled that the violation constituted a justified limit on the equality rights of permanent residents of Canada because it promoted and valorized Canadian citizenship, and the detrimental effects were neither severe nor permanent, insofar as the noncitizen could acquire citizenship after three years of permanent residence. The scope for lawfully permissible discrimination against noncitizens is narrow in Canada, but it has been neither definitively demarcated nor eliminated.

Public discourse about citizenship routinely bemoans the fact that citizenship confers rights on citizens without appearing to impose correlative obligations upon them. This complaint is probably accurate. Compulsory military service remains the quintessential legal obligation attached to citizenship, and Canada does not have conscription. Interestingly, the US, which has a large military but no conscription, does not require soldiers to be citizens, although citizenship is required in order to hold the rank of officer.[24]

Some states, such as Australia and Belgium, impose upon citizens a duty to vote in national elections. Again, Canada does not mandate that eligible Canadians must vote. The only obligation imposed exclusively on Canadian citizens is jury duty.

All in all, except for the few entitlements mentioned, Canadian citizens and foreigners who are permanent residents in Canada enjoy the same rights and obligations. Other states impose greater restrictions on noncitizens, even permanent residents: For example, the entitlement to own property, inherit and invest may be restricted on the basis of citizenship. But Canada's position is consonant with its historic approach to the rapid incorporation of immigrants into Canadian society and with its embrace of the culture of human rights after the Second World War, a trend accelerated by the adoption of the Canadian Charter of Rights and Freedoms.

Multiple Citizenship Gains Ground in Europe

Old World countries, new countries of immigration

Consistent with our earlier remarks about the linkage between patterns of migration and citizenship regimes, we suggest that differences between many European states and Canada regarding multiple citizenship are also connected to different attitudes toward the fact and import of immigration. Among European states that do not recognize dual citizenship, opposition to the practice has less to do with dual allegiances in a literal sense, and more to do with a country's "complex belief system around the issues of 'societal integration', which refers to both the integration of society as a whole and the integration of immigrants" (Faist 2007, 171). From this vantage point, dual citizenship denotes retention of an exit option, making dual citizens less inclined to participate in the political process, learn the language and fully commit to the country.[25] Settler societies, especially Canada, have operated on the competing rationale that immigrants will be *more* likely to naturalize and integrate if doing so doesn't require severing connections to their past.

A quick survey suffices to illustrate that the general trend in Europe follows the Canadian approach to dual citizenship. The UK and France are as good places as any to begin, given their historic ties to Canada. As it happens, they both fall on the liberal end of the spectrum, with respect to dual citizenship. Other European states that reflect greater resistance to dual citizenship are included here to give a sense of the range.[26]

Britain has seen some controversy over the integration of immigrants in recent years, and naturalization tests have been imposed, requiring fluency in English, Welsh or Gaelic and knowledge of the country's way of life (Howard 2009, 551). But for all of this, the UK is noted for its "liberal, even cavalier, view of dual nationality" (Hansen 2002, 179).[27] There has been no discussion of

disallowing or discouraging dual citizenship. Multiple citizenship continues to be accepted in Britain, one expert explains, for purely pragmatic reasons: It has caused no problems, and extending citizenship to immigrants is thought to encourage their integration (185). Yet, it is notable that in the post-2001 climate of anxiety and fear, the UK has expanded the legal authority of the state to revoke UK citizenship when the Home Secretary deems it in the "public interest" (Macklin 2007). This provision applies to those who acquired UK citizenship at birth or by naturalization. Because the UK's international legal commitments preclude it from creating stateless people, this citizenship-stripping provision applies only to dual or multiple citizens.

France's nationality law blends principles of *jus soli* and *jus sanguinis*. Today French nationality is attributed at birth if one of the child's parents is a French national, or if the child is born in France and one of the parents was also born in France. A person born in France whose parents are neither French nor born in France will automatically become a citizen at age 18 (Weil and Spire 2006, 187). France also allows its citizens to emigrate and naturalize abroad, acquiring dual citizenship in that way (Weil and Spire 2006, 195). Indeed, French law permits citizenship to be passed down from generation to generation in families living outside of the country.

France therefore fully accepts multiple citizenship, and anyone who has acquired French nationality "enjoys all the rights attached to the status of being a French citizen, from the day of that acquisition" (Weil and Spire 2006, 208). France is pointed to as exemplifying an inclusive, republican ideal of nationhood, where nationalism is conjoined with political ideals (equality, fraternity, etc.) rather than ethnocultural identity. However, the recent denial of citizenship to a Muslim woman who wore a face-covering veil suggests that the inclusivity of the French conception of citizenship is perhaps more contentious and contestable than the traditional account suggests.[28] Indeed, control over immigration and naturalization has grown more stringent in recent years.[29] The result is that it has become more difficult to immigrate to France and to acquire citizenship, though multiple citizenship remains permissible.

A number of other EU countries have recently warmed to dual citizenship. Belgium, until very recently, had an asymmetrical rule: Emigrants from Belgium lost their Belgian citizenship upon naturalization abroad, while immigrants to Belgium were allowed to retain their prior citizenship (Foblets and Loones 2007, 77).[30] The law was changed in 2007 to correct this asymmetry, and Belgium is now generally permissive of dual citizenship, albeit with significant exceptions.[31] Luxembourg amended its nationality law in 2008 to permit dual and multiple citizenship.[32] In 2001, Sweden did away with its restrictions on dual citizenship (Bernitz and Bernitz 2006, 517; Spång 2007, 103). Finland also did so in 2003 (Fagerlund 2006, 159). Italy has permitted dual citizenship since 1992 (Zincone and Basili 2009). Portugal abandoned its opposition to dual nationality not long after Canada, in 1981 (Baganha and Urbano de Sousa 2006, 435).

The list could go on[33] but it is more expedient to survey the EU countries that continue to restrict or forbid dual citizenship. Consider the cases of Germany, the Netherlands, Austria and Denmark.

Germany is often pointed to as a holdout in the general trend toward allowing multiple citizenship, but this is an overstatement. Those who hold German citizenship and wish to

naturalize abroad are allowed to obtain dual citizenship, but only so long as they retain genuine ties with Germany, such as via family in Germany. Germany has traditionally had a *jus sanguinis* regime and onerous naturalization requirements. Until 2000, the residency requirement for naturalization was 15 years (German Consulate General Toronto n.d.). Changes to the law in 2000 reduced the eligibility period to eight years and introduced a conditional *jus soli* citizenship. Children born in Germany to long-term resident immigrants now acquire dual citizenship at birth but must choose between their two nationalities by the age of 23 (De Hart and Van Oers 2006, 337). "Liberal exceptions" are made in circumstances where renunciation of one's other citizenship is onerous (Hailbronner 2006, 214). Broadly speaking, the default position in German law remains opposed to dual citizenship, although the exceptions detract significantly from the rule. The default position's resilience will be tested as the first *jus soli* citizens reach the age of 23 and are required to opt for a single citizenship. There is already evidence of a movement against "the obligation to opt" and in favour of permitting these *jus soli* German citizens to retain dual citizenship (Naujoks 2009).

The Netherlands is another outlier from the trend to liberalize dual nationality rules. Like Germany's, the law in the Netherlands is opposed in principle to dual citizenship, but exceptions are made where renunciation is likely to be onerous or impossible.[34] The requirement of renunciation was done away with for a time in the early 1990s but reinstated in 1997. In 2003, the Dutch government removed some of the exceptions to the renunciation requirement; second-generation immigrants and the spouses of Dutch nationals would no longer receive a blanket exemption (De Hart and Van Oers 2006, 337). It may be more accurate to say that the Netherlands is on the fence regarding dual citizenship: Some commentators claim that exceptions are made so readily to the renunciation requirement that the Netherlands should be viewed as de facto permissive of dual citizenship (Howard 2005, 709).

Austria is also among the holdouts and has not granted citizenship to the children of immigrants (Çinar and Waldrauch 2006, 49). In Austria, citizenship is conferred by *jus sanguinis*, and Austrian nationals living outside of the country are able to pass on their citizenship for generations, notwithstanding their estrangement from the country (29). The acquisition and loss of Austrian nationality by naturalization are regulated by the *Federal Law on Austrian Nationality 1985*, which was last amended in 2005. The new provisions, which came into force in March 2006, require immigrants seeking naturalization in Austria to renounce their prior citizenship, insofar as this is reasonably possible (34-5). Additionally, Austrian citizens who express a "positive intention" to acquire citizenship in foreign countries are considered thereby to have renounced their Austrian citizenship (34-5).[35] Austrian nationals may obtain dual citizenship, at the discretion of Austrian authorities; one commentator notes that Austrian bureaucrats have "almost unlimited leeway, as the requirements to be met are defined very vaguely" (35). Those wishing to obtain dual citizenship must demonstrate either that this is in the public interest of Austria, or that it is justified by some other "special reason": financial hardship, loss of inheritance rights in the other country, loss of employment in both countries (35). The aim in making exceptions, as with Germany and the Netherlands, is to cope with any extreme adverse effects resulting from the ban on dual citizenship.

Denmark, lastly, has some of the most guarded nationality laws in the EU, standing apart from other Nordic countries (Sweden, Finland and Iceland) on this issue (Ersbøll 2006, 106). Denmark has long opposed dual citizenship, but refugee and immigration issues took centre stage after the 9/11 attacks, as a new Liberal-Conservative coalition assumed power with a mandate to tighten naturalization laws. Changes to nationality law enacted in 2002 required an oath of loyalty, further limited immigrant families' capacity to reunify and imposed a more rigorous entry test (131-2). Multiple citizenship continues to be formally prohibited (subject to discretionary exception), although one scholar estimates that up to 40 percent of naturalized Danish citizens retain their former citizenship (Ersbøll 2009, 26).

Although EU states exhibit some divergence regarding official acceptance of multiple citizenship, the evidence suggests that the practice is increasingly tolerated, either through nonenforcement of the law or through the exercise of discretion in the granting of exceptions to the rule. The impact of 9/11 has doubtless hardened attitudes toward immigrants (especially Muslims and Arabs) in many quarters, a shift that in turn reverberates across the spectrum of immigration and citizenship policies. However, while it may have slowed the formal adoption of dual citizenship among states that resisted it in the past, there is no evidence that the trend toward multiple citizenship is stalling or reversing (Faist 2007, 171).

The European Union's citizenship dynamics

European Union citizenship introduces a new variable into the phenomenon of dual citizenship. All citizens of EU member states are thereby also EU citizens and benefit from free mobility, residence rights and labour market access in all other member states.[36] While one could depict this horizontally as a form of dual citizenship, it is more properly understood vertically as a supranational citizenship within which individual state citizenships are nested. Eligibility for European Union citizenship is wholly derivative. EU citizenship is available only to those who are already citizens of a member state, and each state retains authority to set its own criteria for citizenship. One cannot be an EU citizen separate and apart from being a citizen of a member state, and cessation of citizenship in at least one EU member state results in loss of EU citizenship.

The harmonization dynamic within the EU generated the 1997 European Convention on Nationality,[37] which includes provisions on multiple nationality. While the convention does not require states to permit multiple citizenship (except for children who acquire it at birth), article 16 does prohibit states from requiring immigrants to renounce prior citizenships as a prerequisite to naturalization "where such renunciation or loss is not possible or cannot reasonably be required." As a pragmatic matter, it seems reasonable to anticipate a decline in the number of citizens of EU member states seeking citizenship in other EU member states, insofar as the entitlements of EU citizenship obviate the practical value of most incidents of naturalization. But the acquisition of citizenship in an EU member state has become even more desirable for third-country nationals, precisely because it brings with it EU citizenship and the full panoply of entitlements throughout the European Union.[38]

Multiple Citizenship Resonates in Our Globalized World

As noted earlier, wholesale rejection of multiple citizenship is in worldwide decline. That said, the Dominion Institute's Rudyard Griffiths mounts a spirited rearguard action against the practice:

> *The practice of dual citizenship, especially among the Canadian-born, does a disservice to a country that gives us so much and asks for little in return. It needlessly conflicts our loyalties, weakens whatever sense of common purpose we have in this diverse nation of ours, and perpetuates a minimalist vision of what we owe each other and Canada as fellow citizens. (Griffiths 2009a)*[39]

Griffiths' assertions about the impact of dual citizenship on Canada and Canadians are commonplace enough to be presented as fact. Thus, we turn now to a more careful consideration of the validity of these claims made about citizenship and multiple citizenship.

Multiple citizenship mirrors the complexity of identity

One's personal identity is shaped by many features, of which nationality is only one. However, no one should doubt the immensity of citizenship's practical importance. Our life chances and the shape our lives take are dramatically affected by whether the "accident of birth" bestows upon us citizenship in a stable, secure, prosperous state or citizenship in a poor, conflict-ridden, tyrannical state. While some experience their legal citizenship as their most important affiliation, others experience it as less definitive than other identities, or even variable in importance depending on the context. It may be pointless to demand an abstract ranking of the subjective importance of nationality, religion, gender, ability, sexuality, ethnicity and so on in constituting who we are and what matters to us. It is neither necessary nor helpful to insist that one declare whether being Canadian (for example) is always and everywhere more "important" than being, say, female, or Québécois, or Hindu, or disabled, or an artist.

The identities and memberships we claim as important to us are not coextensive with geopolitical borders. This matters in two ways. First, as noted earlier, principles of human rights and equality limit the authority of states to discriminate against people under their territorial jurisdiction on the basis of citizenship, at least outside the realm of immigration law. This is the basis of the claim by so-called postnationalists about the dwindling importance of legal citizenship. Second, nationalism may be diminishing in salience as a feature of our collective political culture. For some, the recognition of multiple memberships across and beyond states signals a worrisome dissolution of the ties that bind individual members of a state to each other and to their nation. For others, it heralds an era where the excesses and perils of nationalism and the state system are leavened by relationships that transcend and extend beyond borders.

Allegiance to country used to be demonstrated by service in the armed forces through conscription. However, this practice is slowly disappearing in the global North. Interestingly, about 8,000 permanent resident ("green card") noncitizens enlist annually in the US military, and the US has recently expanded its recruitment to include temporary residents (United States 2008; Preston 2009).[40] Furthermore, the US military offers noncitizens accelerated access to US citizenship as an incentive to enlist. These trends suggest a profound attenuation of the traditional notion of military service as a duty of citizens and its replacement with a system

whereby noncitizens "earn" citizenship by undertaking a task that too few US citizens will perform voluntarily.

Multiple affiliations reflect the changing nature of population mobility and growth. Many countries that were once countries of emigration are now being transformed by immigration and have come to recognize (reluctantly or otherwise) that their future capacity to sustain their aging and shrinking population makes immigration a demographic and economic imperative. In the settler societies of Canada, the US, Australia and New Zealand, immigration has been hitched to nation building since first contact.

Globalization enhances people's ability to sustain meaningful forms of civic, political, personal, economic and emotional attachment to more than one country, and indeed to nonstate communities as well. The speed and relative ease of international travel, the possibility of transnational circulation over time, the cultural diversity of countries of immigration (like Canada) and the technological capacity to maintain personal contact and to remit money across vast distances all contribute to fostering a lived experience of multiple (if partial) belonging.

One may feel particularly linked to more than one country when one comes from a mixed background. Let's consider the Canadian-born daughter of a South Asian father and an Italian-born mother, who has spent her childhood in Canada. If this girl hears or speaks one or more of the languages at home, travels to India and Italy for family holidays and meets relatives in both countries, her connections to India and Italy may be different but no less "real" than her link to Canada. She may not envisage living permanently in either country, but she may consider studying, doing an internship or working temporarily in Italy or India. It is also possible that she might meet a life partner in one or the other and decide to settle, if only for a time, in either country. Young people from the global North are circulating around the planet in an unprecedented manner, and those with kinship links to other countries may enjoy preferential access to the educational institutions and the labour market, even if they do not hold legal citizenship. These factors will exert an influence on the connection they feel to their parents' or grandparents' countries of origin.

This heightened mobility is reflected in literature. Many contemporary Canadian novels (as well as many novels from the US, Britain, Australia and Europe) deal with issues relating to roots and the feeling of rootlessness after a migration process, to the transmission of cultural heritage in an era of cultural globalization and to the shifting meanings of identity and self when confronted by multiple national, cultural and/or religious narratives. In contrast with the fear and loathing of "cosmopolitanism" and the fetishization of cultural or racial purity until the mid-twentieth century, we have witnessed the emergence of an appreciation for the creative opportunities of multicultural backgrounds and for the "creolization" of cultures and languages.

Finally, the culture of human rights and democracy has played a role in transforming our relationship to states and to traditional national narratives. Political stability and freedoms and economic prosperity doubtless play an important role in migration decisions. The attractiveness of

Canada rests less on an adherence to its historical narrative (which is as much based on depredation, predation, colonialism, oppression, misery and violence as any other country's) than on the fact that it is nowadays a country that generally respects human rights, doesn't undergo regular political upheavals and provides services for its population.

In the face of such changes in the concept of identity, one sometimes hears the complaint that some immigrants take an instrumental view of citizenship and choose to naturalize as a consequence of a rational cost-benefit analysis that weighs the benefits of political protection, social advancement or economic advantage against the hardship of emigrating from the country of origin and satisfying Canadian citizenship requirements. This posture is contrasted against an idea that the benefits of Canadian citizenship should be accompanied by correlative duties and obligations and, further, that the decision to naturalize should express a nonutilitarian embrace of Canada's historical, cultural and political narrative.

These objections invite at least three queries. First, why should one require adherence to the Canadian historical cultural narrative (whatever this may be) from immigrants when this is not required of Canadian-born citizens? Surely, many Aboriginal people in Canada do not adhere to this narrative, and most Canadian-born citizens are ignorant of large chunks of it. Similarly, the lack of specified legal duties and obligations flowing from citizenship status applies as much to birthright citizens as to naturalized ones and cannot be considered any more or less problematic for the latter than for the former. Second, are instrumental and romantic views of citizenship necessarily mutually exclusive? After all, it is not simply utilitarian to "love" Canada because one has found here some measure of peace, security and prosperity for oneself and one's children. Finally, if one is concerned that Canadian citizenship is offered "too cheaply" to immigrants, increasing the cost of citizenship simply for that reason (by imposing stricter criteria on obtaining or retaining it) does not impede the commodification of Canadian citizenship. It merely makes Canadian citizenship a more expensive commodity. Canada certainly has a legitimate interest in encouraging citizens to love Canada. However, legal rules for the acquisition or retention of citizenship are inherently limited in their capacity to guarantee, monitor or enforce the affective attachment, personal loyalty and civic engagement that we might consider desirable traits for all citizens of Canada.

Ultimately, the impact of multiple citizenship on identity, loyalty, belonging and attachment cannot be fixed or determined objectively by appeals to theoretical argument about what citizenship means or ought to mean. The impact can be measured only in sociological and empirical terms and will be highly variable. The experience of membership and belonging to a community, and the place of legal citizenship within that, will not be the same for all people in all places at all times. Nor can uniformity of meaning be imposed by law, be it a law that forbids an individual from acquiring or retaining a second citizenship or a law that forbids an individual from relinquishing a first citizenship. That is not a reason for doing away with legal citizenship. Rather, it is a useful corrective to expansive accounts of what legal citizenship is and to overly ambitious prescriptions about what legal citizenship can do.

Multiple citizenship benefits Canada

Ultimately, allowing Canadian citizens to acquire or retain other citizenships may redound to Canada's benefit. Conventional wisdom holds that citizenship is an important mechanism for facilitating and promoting immigrant integration, an outcome that is as important to immigrants as it is to the state project of building and stabilizing the national community. A country of immigration like Canada that prohibited multiple citizenship would risk the prospect of a large population of permanent residents who do not naturalize and thereby remain outside the political community because they do not wish to relinquish their other citizenships. Additionally, diasporic communities whose members are Canadian citizens can serve as social, political, economic and cultural integration facilitators, especially if this bridging role is recognized and fostered by the host state.

From an economic perspective, members of diasporic communities can help foster beneficial trade linkages and other economic relationships, and they can often do so with greater efficacy and security if they are citizens of both countries and decide to make their dual identity a feature of their professional ventures.[41]

From a cultural perspective, diasporic communities can also serve as intermediaries between newcomers and the host society. Cultural creativity in literature, film, music and cuisine will be expanded with the contact of multiple cultural connections.

From a diplomatic perspective, Canada's influence on the international political scene may be augmented by the knowledge that Canadians of different origins who have kept close links to the country of origin may bring to the conduct of foreign relations. Some commentators from states of the global North suggest that "hyphenated" citizens, especially those who resume residence in their other country of citizenship for some period of time, operate as personal conduits of liberal-democratic values.

Countries of emigration also have an incentive to permit dual citizenship as a means of strengthening and sustaining emotional and cultural ties among emigrants and promoting remittances and foreign investment by these diasporic communities in the countries of origin. Just as countries of immigration do not want to gamble that immigrants will choose their original citizenship over the host country's, so too may countries of emigration fear gambling and losing. Permitting multiple citizenship avoids that risk.

Good Citizen versus Bad Citizen?

Even if few in Canada seriously contend that we should prohibit multiple citizenship, anxiety about a perceived disloyalty or "lack of commitment to Canada" sometimes finds expression in resentment or suspicion of dual citizens. Judgments about whether someone is a "good" or "bad" citizen — as measured by civic engagement, presumed embrace of so-called Canadian values, economic self-sufficiency, respect for law or the like — is sometimes tethered to the notion that people who are multiple citizens are more likely to be "bad" citizens, especially if they or their parents acquired citizenship by naturalization. In the post-9/11 climate, Canadians of Muslim or Arab ancestry are especially vulnerable to these inferences on the

basis of their real or imputed religious and political beliefs and practices. Ultimately, it is doubtful that suspicion or antipathy turns on the literal possession of another citizenship, since that fact is not likely to be known widely. Indeed, it is worrisome that even Canadian citizens born and raised in Canada might nonetheless be regarded as "inauthentic" citizens on the basis of beliefs or practices imputed to them because of their ethnicity or religion.

When it comes to actual dual citizens, however, one can certainly detect a specific anxiety about those who do not reside in Canada. This is so even though one cannot sensibly accept the legitimacy of multiple citizenship and simultaneously condemn those multiple citizens who do not reside in Canada. After all, people cannot generally reside in more than one country at a time. This objection in relation to residence seldom leads to rejection of multiple citizenship, but instead animates a claim that dual citizens who do not reside in Canada do not deserve the full inventory of citizenship entitlements, or at least not on the same terms as resident citizens. This claim in turn generates proposals to deny specified services to nonresidents or to make nonresidents pay (or pay more) for the service in question. Why? Two overlapping themes figure in the debate: lack of commitment and the fiscal argument.

Are nonresident citizens less worthy of protection? The "lack of commitment" argument

An estimated 2.8 million Canadian citizens reside abroad, which is about 8 percent of the Canadian population, but it is not known how many are dual or multiple citizens, or how any of these multiple citizens acquired their nationalities (DeVoretz 2009a,b).[42]

The argument about commitment regards the choice of a citizen to live abroad as proof that the individual is insufficiently committed to Canada or, alternatively, less committed to Canada than to the country in which he or she resides. Therefore, the nonresident citizen should not be entitled to claim the same rights that resident citizens can claim. It should be noted that Canada already distinguishes between resident and nonresident citizens for certain purposes and, indeed, is more restrictive than some other countries in this regard. For example, Canadian citizens who reside abroad for more than five years cannot stand for public office or vote in Canadian elections until they resume Canadian residence. As previously explained, the commonly cited rationale is that it is unfair to give an equal voice in choosing how the state will be governed to those who, by virtue of living abroad, do not live with the quotidian consequences of that choice.

Many other states do not limit expatriate voting rights. For instance, nonresident citizens of the US can vote in federal elections forever. Other states do the same, provided the nonresident travels "home" to cast the ballot on election day: Candidates for election in Mexico, the Dominican Republic and Haiti regularly travel to the US to garner support from the diasporic community. In the latter countries, where the state and the population rely significantly on remittances from abroad, expatriates may retain the franchise on the claim that their ongoing financial contribution gives them a legitimate stake in how the state is governed.

In 2006, Italy revised its election laws regarding expatriate voters, with dramatic results. First, Italy set aside 18 parliamentary seats for Italian expatriate citizens; second, it facilitated

overseas voting. Notably, Italy confers *jus sanguinis* citizenship indefinitely via patrilineal ancestry and, since 1947, via matrilineal ancestry as well. This means that an overseas citizen of Italy who is entitled to vote may be several generations removed from actual residence in Italy. He or she may have never set foot in Italy. In the 2006 election, approximately 42 percent of eligible overseas voters returned a ballot, and their vote was considered instrumental in the centre-left victory (Battiston and Mascitelli 2008). Viewed comparatively, Canadian law is already restrictive regarding the overseas franchise.

Access to public health care by nonresident citizens is another point of contention, insofar as nonresidents are sometimes accused of retaining citizenship for the instrumental purpose of accessing health care. Strictly speaking, health care is not an entitlement flowing from legal citizenship. Access to public health care is a provincial responsibility, eligibility for which depends on provincial residence, not Canadian citizenship. For example, Ontario health insurance eligibility rules require newcomers to the province from elsewhere in Canada or from abroad to establish residence for five out of the first six months in Ontario. Existing residents must maintain a presence in Ontario for approximately five months a year (Ontario n.d.). Whether one is a dual citizen who resides in the other country of citizenship or a mono-citizen of Canada who winters in a condo in Florida (where health care is private), access to public health care in Canada requires a minimum period of residence in the province where health care is sought.

Given that certain citizenship rights (the franchise) and important state entitlements (such as health care) are already conditional upon residence, why insist on further restrictions based on residence? Judging from media attention, much of the recent controversy over the rights of nonresident citizens revolves around access to consular assistance and diplomatic protection.

The evacuation of Canadian citizens from Lebanon in the midst of the Hezbollah-Israel conflict of July-August 2006 incited considerable public debate in Canada.[43] When hostilities erupted in 2006, an estimated 40,000 to 50,000 Canadians were visiting or residing in Lebanon. Over the course of the 2006 conflict, about 39,000 Canadian citizens registered with the embassy, although only 15,000 sought evacuation.[44] During and after the conflict, a narrative rapidly emerged: A large (but unspecified) proportion of evacuees were former Lebanese immigrants to Canada who stayed in Canada long enough to naturalize, then moved back to Lebanon. When the conflict erupted in 2006, they called on Canadian government assistance to escape the conflict, only to return to Lebanon when hostilities ceased. They were portrayed as "citizens of convenience" who regarded their Canadian citizenship in purely instrumental terms as an "insurance policy" to redeem in times of crisis.[45] Although figures were bandied about in the media regarding the number of dual citizen evacuees who actually resided in Lebanon and the number who returned to Lebanon subsequently, these were based on little more than casual or unattributed conjecture.

No reliable evidence was ever proffered in support of this narrative. Having said that, it is probably safe to assume that some proportion of the evacuees were dual Canadian-Lebanese citizens who did reside in Lebanon (as opposed to visiting or residing there temporarily).

Some Canadian commentators took the position that nonresidence ought to disentitle one from consular assistance. According to these critics, choosing to live elsewhere signals greater affinity and loyalty to another state, and Canada need not take responsibility for citizens who choose another country over Canada.

Interestingly, US, UK and Australian media stories about the evacuation of dual citizens from those respective countries evince no comparable concern about the legitimacy of evacuating dual Lebanese-American, Lebanese-British and Lebanese-Australian citizens on the same terms as mono-citizens. More recently, Canadian-Haitian citizens were evacuated from Haiti following the horrific earthquake in January 2010. Media coverage revealed no objections to the evacuation from Haiti of dual citizens along with mono-citizens. No one in the mainstream media appeared to question the appropriateness of evacuation by asking how, why and for how long these dual citizens may have been present in Haiti when the earthquake struck. We commend the logistical, moral and financial support that the Canadian government and public provided for this evacuation. We also find it difficult to locate a principled basis within debates about dual citizenship that is capable of rationalizing the different reactions to the evacuation of Lebanese-Canadians and to the removal of Haitian-Canadians.

Principled and pragmatic considerations incline against the proposition that dual citizens residing outside Canada should be denied consular assistance or diplomatic protection. Unlike the franchise, consular assistance and diplomatic protection are, by definition, entitlements that can be exercised only outside Canada; historically, the exercise of diplomatic protection arose precisely in order to protect expatriates. Furthermore, consular assistance is typically sought in circumstances of exigency, and sometimes crisis. At such moments, including during the Lebanon evacuation, even proving citizenship can pose a logistical challenge.[46] To superimpose a residence requirement would add evidentiary impediments that would prove impracticable and inhumane during an emergency when lives are at risk.

What would it mean to actually subject Canadians to a residence test as a prerequisite to granting access to consular assistance and diplomatic protection? Should it matter how long one lived in Canada before departing, either in absolute terms or in comparison with the length of residence abroad? Would the reasons for departing Canada matter? Would it matter if one's other citizenship is in the country where one resides? One might return to one's country of origin because, contrary to expectation and despite years of effort, one's professional credentials and education were not recognized in Canada. Or one might go back to support and care for a sick relative and end up staying longer than expected. Or one might have been taken from Canada to another country as a child by one's parents, with no say in the matter. One might end up spending 25 years doing development or humanitarian work in a poor or war-torn country. Sometimes refugees find safe haven in Canada from conflict and repression and then, after benefiting and learning from Canada's stable democracy, return to assist in the rebuilding of their first country of citizenship. Are each and all of these nonresident dual citizens mere "citizens of convenience" who do not deserve Canadian consular assistance? If the answer is no, one requires nonarbitrary criteria for determining what constitutes nonresidence for purposes of consular assistance, a means of distinguishing between deserving and

undeserving nonresident citizens, a process for making such decisions and recourse to deal with mistakes at the first level of decision. And, moreover, this process would have to be operationally viable in emergency situations, a prospect that seems highly tenuous. We conclude that the normative concerns and logistical constraints on devising and implementing a system that would discriminate between dual citizens on grounds of residence strongly militate against such a scheme.

Are nonresident citizens less worthy of protection? The fiscal argument

According to the fiscal argument, since overseas citizens do not reside in Canada, they do not pay taxes, and therefore they should not qualify for certain government services made available through tax revenue, or at least not without paying for them. The criticism is, in effect, that they are "free riders." The solution for this is to make overseas citizens pay. Proposals range from billing nonresident citizens for the services they use (such as the cost of evacuation to Canada), to imposing a flat tax in the form of a premium on passport renewal for nonresident Canadians, to adopting the US model of requiring overseas citizens to file annual US income tax returns.[47]

The idea of charging nonresident citizens for government services seems to arise almost exclusively with respect to consular assistance. As noted above, most other government services are available only to those within the territory of the state. Indeed, health care depends not on citizenship but on provincial residence, and Canadian citizens returning from abroad to access it must reside in a given province for a stipulated minimum period of time (typically three months) in order to qualify. Any child residing in the jurisdiction is entitled to attend primary and secondary school,[48] and tuition fees for post-secondary students are the same for citizens as for permanent residents. Provincial post-secondary institutions are permitted to charge higher fees for foreign students coming from abroad; indeed, Australia recently expanded its foreign student program dramatically in part for that reason.

In contrast to education and health care, consular assistance becomes relevant only when a citizen is outside Canada. Former politician Tom Kent states the case for imposing an obligation to pay taxes:

> *The duty to pay taxes should be inherent in citizenship. Where the citizen chooses from time to time to live is irrelevant. The obligation is to the state that provides the rights of citizenship. Taxation is the price you pay to have those rights. But not, at present, if you are Canadian. Live in Barbados, or wherever, and you are Canadian free of charge...And as legal changes go, it is easy. There is an excellent precedent to hand. American citizens living outside their country do not thereby escape liability for American tax. Canadian law should similarly provide that every citizen, irrespective of where he or she is residing at any time, is required to file a return of income from all sources, and then to pay the assessed Canadian tax. If the country of residence has a tax treaty with Canada, the assessment would of course reflect an appropriate allocation of tax between jurisdictions. But if it is a haven or country of uncertain tax administration, then the liability would be for the full amount of Canadian tax. (Kent 2008)*

This narrow fiscal argument is based on a faulty premise linking citizenship to the obligation to pay taxes. Despite the appealing rhetoric of the slogan "No taxation without representation!" the fact is that noncitizens (temporary and permanent residents) do pay taxes yet cannot vote,[49] while resident citizens who pay no taxes can still vote. Income tax is payable to the

state by all those who earn income within that state, regardless of citizenship status. Sales tax is payable by all consumers, be they citizens, tourists, temporary workers, refugees, permanent residents or even irregular migrants. The same goes for property tax, capital gains tax and so on. Citizens who do not earn income (for example, stay-at-home mothers or retirees) or persons in receipt of income support may pay no income tax, but their formal access to the legal entitlements of citizenship is not precluded on that basis.[50]

The US does impose an obligation on all its citizens to file a tax return, regardless of how long they have resided abroad, the type of income earned or where the income is earned. Closer examination of the US system reveals that its practical scope is quite narrow. Bilateral tax treaties preclude double taxation by the US in respect of income already taxed in the country where it was earned. In addition, US citizens can use a foreign tax credit to offset US tax liability. Finally, US citizens can claim a foreign earned income exclusion of almost $90,000. The import of these rules is this: While nonresident US citizens must file an annual US tax return, only those who earn high incomes in jurisdictions with relatively low tax rates will actually incur any tax liability.[51]

US tax law scholar Reuven Avi-Yonah reviews the historical basis and contemporary arguments for taxation of nonresident US citizens on their worldwide income (2010). Taxation of nonresident citizens originated in the Civil War era, when the state was in crisis, the draft was applied widely to male citizens, only the rich paid taxes, and some rich citizens moved abroad to evade both conscription and taxation (3-4). Avi-Yonah points out that the US is the only state in the world today (with the possible exception of Eritrea) that taxes nonresident citizens on worldwide income solely on the basis of citizenship (1).

Taxation of US nonresident citizens was always more of a symbolic gesture than a practical one. As in Canada, physical residence and the source of the income, not citizenship, are acknowledged as the dominant and legitimate bases of US taxation. Avi-Yonah surveys recent debates in the US and contends that the ostensible benefits of US citizenship to those residing permanently abroad cannot justify taxation on worldwide income. He concludes that the policy does not make sense in theory and does not work in practice: "Taxation of [US] non-resident citizens is a relic of the past that is ripe for abandonment...The only way that we can maintain the fiction that we actually tax most of our non-resident citizens is by enacting complicated credit and exclusion provisions that are difficult to administer and are frequently ignored in practice" (12).

As for the nexus between taxation and representation, it is perhaps worth reiterating that expatriate US citizens who must file annual tax returns (though will likely pay no tax) can also vote in US federal elections forever, no matter how long they have resided abroad. Canadians who reside outside Canada longer than five years need not file Canadian tax returns and also give up the franchise until they resume Canadian residence.

Ultimately, the tax obligation imposed on nonresident US citizens is more symbolic than material, and the administrative burdens associated with enforcement doubtless erode the

fiscal gain.[52] That does not refute its utility, of course: To a large extent, what is at stake in debates around dual citizenship *is* symbolic, but no less real on that account when measured in political terms. Anxieties reside in the realm of emotion, and the issue for policy-makers is whether the bureaucratic expenditure required to administer a program for the sake of appearance is worthwhile.

Even if one discounts the taxation argument, one might still contend that beneficiaries of consular assistance ought to reimburse the government for the cost incurred for extraordinary expenditures, such as evacuation. Indeed, it is Canada's general policy to request repayment for costs associated with evacuation. The US usually does the same. In the Lebanese context, vociferous public criticism of the repayment obligation led the US government to waive the costs of evacuation. We have located no US commentators who advanced the argument that the repayment obligation should be waived for mono-citizens but retained for dual citizens. We take no position on whether the state should seek reimbursement for evacuation on a cost-recovery basis, but we do contend that the policy choice about whether to do so should not differentiate between mono- and multiple citizens.

Multiple citizenship of holders of high public office

Even among those who do not generally oppose multiple citizenship, there is some currency to the idea that holders of high public office should be held to a more scrupulous standard. Any taint of divided allegiance must be avoided when the office holder formally represents the state in decision-making and/or in official functions. The constitutions of Australia, Latvia, Jamaica and Nigeria, among others, prohibit dual nationals from holding public office (Spiro 2010, 129); famously, the US Constitution even bars naturalized citizens from eligibility for the presidency. The issue has also aroused controversy in Canada. The French citizenship of Governor General Michaëlle Jean (acquired through her marriage to a French citizen) and of former Liberal Leader Stéphane Dion (acquired through his French mother) attracted a measure of criticism.

It seems clear, however, that no one seriously doubted the commitment of either person to Canadian public life and the advancement of Canada's interests. Dion had more or less spent his entire life in Canada, and Jean arrived at the age of 11 as a refugee from Haiti. The voters remain free to consider dual or multiple citizenship relevant when casting their ballots. One might suggest that the significance of dual citizenship among elected officials can adequately be addressed in the polling booth, in the same way as the public is entitled to judge for itself the importance it attaches to decades of residence abroad by the current leader of the Liberal Party, Michael Ignatieff.[53] It is not apparent why the issue must be resolved through legal proscription.

Because the office of governor general is an appointed one, it is impervious to electoral pressure. Nevertheless, Michaëlle Jean voluntarily renounced her French citizenship upon assuming her position as governor general, presumably to assuage any lingering public discomfort. In 2010, a devastating earthquake decimated Haiti, especially the areas around Port-au-Prince and Jacmel, where Jean was born and spent her early childhood. Haiti prohibits dual citizenship, so Jean had relinquished her Haitian nationality when she acquired Canadian citizenship. Yet the Governor General's deep concern for and attachment to Haiti was evident in her

public statements and actions following the earthquake (MacCharles 2010). Letters to the editor in newspapers mainly expressed admiration and respect for the Governor General's empathetic response, although at least one complained, saying that her "emotional TV performance was a disgrace. She put her country of origin before the country in which she holds office" (Mullan 2010). The point here is that loss of Haitian citizenship did not sever the Governor General's personal and emotional connection to the country of her birth, nor did it preclude allegations of divided loyalty. It may be prudent for a governor general to relinquish other nationalities, but we take no position on the wisdom or necessity of a rule requiring it, except to reiterate that its value resides in the realm of symbolic politics.

Conclusion and Recommendations

In Canada, multiple citizenship is here to stay. It reflects the growing diversity of our population as well as the changing nature of identity. It may also be an asset for the country in terms of better understanding the world and being able to maintain strong trade and cultural links with numerous other countries. Peter Spiro advances the argument that when an individual otherwise meets the requirements for citizenship in more than one state, recognition of multiple citizenship by the respective states ought to be recognized as a human right (2010).

Canadian citizenship policy should not discourage multiple citizenship. On the contrary, it should celebrate this embodiment of the Canadian mosaic and take advantage of the numerous opportunities that it affords.

Despite the controversies over multiple citizenship that we have described, the Canadian government has wisely resisted calls to alter current policy. However, we note that 2009 legislative changes to the *Citizenship Act* have indirectly struck at multiple citizenship by contracting the transmission of birthright citizenship by descent. As noted earlier, between 1977 and 2009, the *Citizenship Act* conferred contingent citizenship on a child born abroad to a person also born abroad to a Canadian citizen. In other words, it provided for second-generation citizenship by descent, as long as the second-generation citizen took active steps by age 28 to manifest his or her connection to Canada, usually by residing in Canada for at least a year. Failure to take the steps necessary to retain citizenship resulted in automatic loss of citizenship.

The initial impetus for the 2009 amendments to the *Citizenship Act* was the anomalous situation of "lost Canadians." This heterogeneous category consists mainly of certain persons born between 1947 and 1977 in Canada, or outside Canada to a Canadian citizen. Without their knowledge or for reasons beyond their control, these people either did not acquire or lost their Canadian citizenship, leaving some of them stateless.[54] The 2009 amendments restore or grant Canadian citizenship to most "lost Canadians." However, the new legislation also contracts the scope of citizenship by descent by stipulating that a person born abroad to a Canadian citizen will acquire Canadian citizenship, but cannot transmit his or her Canadian citizenship by descent to his or her own child.

The government did not explicitly link the limitation on transmission of citizenship by descent to the controversy over the evacuation of Lebanese-Canadians, and the actual connection

between the new citizenship rule and the Lebanese evacuation is obscure. There is no evidence that any of the evacuees were second-generation Canadian citizens by descent. However, it is fair to say that the public was invited to infer a causal relationship in the following sense: The evacuees were accused of being "citizens of convenience" — inauthentic citizens — because they were presumed to be living outside Canada (see, for example, CTV News 2009; Thompson 2009; Uechi 2009). The 2009 amendments restricted the transmission of citizenship by Canadian citizens who bear children while outside Canada.

The government explained that the difficulty with the previous system of requiring second-generation citizens by descent to affirm their connection to Canada by age 28 consisted of administrative challenges to confirming that the individual had indeed affirmed the requisite connection. Since Canada does not maintain exit controls, government authorities could not be confident that an applicant had satisfied the one-year ongoing residence requirement.[55] One might reasonably insist that citizenship by descent should not be transmitted indefinitely. Some evidence of a tangible connection to Canada seems defensible. However, the government never explained how the rule regarding the acquisition and retention of second-generation citizenship posed such a problem that it needed to be solved by radically eliminating second-generation citizenship by descent, an elimination that will cause numerous new cases of hardship.

In practical terms, the 2009 law reduces the number of people who will be dual citizens by shrinking the category of persons eligible to claim Canadian citizenship by descent. It will impose inconvenience and hardship on Canadian women born abroad, who must henceforth organize their lives to give birth to their children on Canadian soil if they want to ensure that their children acquire Canadian citizenship.[56] It also produces an anomalous outcome for Canadian parents who adopt internationally. At present, adoptive parents can elect to sponsor their adopted child as an immigrant, and then apply to naturalize the child as a citizen after the child enters Canada. Alternatively, the adoptive parents can skip the immigration step and opt to have Canadian citizenship conferred on their adopted child prior to entry, as if the child abroad had been born to the parents biologically. If the parents choose the latter route, the new citizenship rule means that the adopted child will not be able to transmit his or her Canadian citizenship to a child born abroad. In contrast, the adopted child who enters Canada as an immigrant and is subsequently naturalized as a citizen will be able to transmit his or her citizenship to a child born abroad. The disparity produced by the 2009 revised citizenship law means that in the context of overseas adoption, naturalized citizenship is more robust than birthright citizenship by descent. This inequality is particularly ironic, since naturalized citizenship is commonly devalued in other social and political contexts in comparison to birthright citizenship.

We reiterate our sympathy for the claim that it is legitimate for the state to encourage immigrants and citizenships to cultivate and manifest a meaningful connection to Canada. As we have argued, we remain cautious about expecting too much from citizenship law in terms of promoting that objective, and we express reservations about restrictions on citizenship that appear to be tenuously connected to advancement of that goal. In the context of naturalization,

we subscribe to the premise animating Canadian policy up to the present: Acquisition of Canadian citizenship is an important vehicle for enhancing, promoting and deepening the connections and engagement with Canada. In this sense, legal citizenship is not the prize for integration, it is part of the process of integration.

We conclude by suggesting one simple measure that the government could adopt within the current system that would constructively enhance the conditions for the development of personal attachment to Canada.[57] We propose that the government clarify the residency requirement for naturalization by amending the legislation to specify that residence for purposes of citizenship eligibility denotes physical presence. At present, Canadian citizenship law requires that a permanent resident reside in Canada for three out of the five years prior to applying for citizenship. The courts are divided, however, on the question of whether "residence" connotes physical presence, or whether the three-year residency period can include significant periods of physical absence from Canada.[58] Here we side firmly with an interpretation of the existing law that would require a minimum fixed period of *physical* presence in Canada as a legal prerequisite to the acquisition of citizenship. It facilitates integration in a manner that cannot be achieved at a distance. While it cannot guarantee the fostering of a meaningful emotional commitment to Canada, we are confident that it is one (if only one) means of catalyzing the formation of such attachment.

We believe that Canadian citizenship does matter and ought to matter to those who possess it and to those who seek to attain it. We also believe that multiple citizenship does not undermine Canadian citizenship and, as a matter of public policy and legal regulation, should not be restricted. Citizenship means different things to different people at different times, and the law's role is crucial yet limited in shaping that meaning. Canadian law enables individuals to embrace or reject multiple citizenship for themselves. Canada has been at the forefront of the global trend toward the recognition and acceptance of multiple citizenship, and we should take pride in this fact as the rest of the world catches up.

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Notes

1 For present purposes, we use *citizenship* and *nationality* interchangeably.

2 See for the UK, *Immigration, Asylum and Nationality Act 2006*, 2006 c. 13; for France, *Loi du 16 mars 1998 relative à la nationalité*.

3 *An Act to Amend the Citizenship Act*, S.C. 2008, chap. 14.

4 Andrew Coyne and Rudyard Griffiths are the exceptions that prove the rule. In 2006, Coyne wrote that the success of Canada as a "great collective venture...demands some elementary measure of commitment. We cannot just opt in and out of the social contract as we please, obeying some laws but not others, paying some taxes but not the rest. Either you're in, that is, or you're out — you can be one or the other, but not both at the same time. And the seal on that commitment is that we forswear all other allegiances. The things we value are the things that cost us something, and the price of a Canadian passport is — or should be — that you cannot carry another." See Coyne (2006). Griffiths takes the unusual position that birthright Canadian citizens should not be permitted to acquire a second citizenship, whereas immigrants who naturalize ought to be allowed to retain their first citizenship. See Griffiths (2009a).

5 Australia also grants citizenship to a child born in Australia regardless of the parents' status if the child resides in Australia from birth for 10 uninterrupted years.

6 Some protection may be afforded, however, when a state has ratified the 1954 Convention Relating to the Status of Stateless Persons.

7 For instance, in the early 1990s, Rogers Brubaker advanced the theory that Germany's citizenship policy reflected a staunchly ethnic form of nationalism, whereby membership depended on being part of the *volk*, the German people, in a traditional, historical and ethnic sense. At the time, Germany extended automatic citizenship to anyone who could demonstrate German descent going back indefinitely, yet denied it to the children of so-called guest workers (mainly from Turkey) who were born and raised in Germany. France's double *jus soli* policy, on the other hand, was relatively open, and Brubaker attributed this to France's more republican "civic" nationalism that made membership available (in principle) to all those who would adopt and defend French values, culture and norms. See Brubaker (1992).

8 Australian citizenship would be granted if the child resides in Australia for 10 years.

9 There is one exception. Naturalized citizenship may be revoked if it was obtained by fraud or misrepresentation regarding a material fact. Of course, one might say that if one has acquired citizenship by birth to a citizen parent, and it eventually emerges that the parent was not a citizen at the relevant time, one would cease to be a citizen because of ineligibility. Some states continue to discriminate in certain respects between birthright citizens and naturalized citizens: In Germany dual citizenship is permitted by birth, but not for those acquiring citizenship through naturalization.

10 Cases of this sort — where the Canadian government conflicts with a foreign government over the treatment of a dual citizen — have arisen in recent years and further fuelled doubts about dual citizenship. See Sallot (2003).

11 In practice, the dilemma of conscription of dual citizens proved relatively easy to resolve through multilateral agreement.

12 Preamble of the European Convention on Nationality, Strasbourg, 6.XI.1997, E.T.S. no. 166.

13 As Moffat Hancock wrote in 1937 of the Canadian Parliament's forays into nationality law prior to the Statute of Westminster: "It should be remembered...that this high-sounding but slippery dignity of Canadian citizenship is simply a term of art among immigration officials, very important at the border, but having no effect upon civil or political rights." Quoted in Galloway (2000, 95).

14 British law does not allow for the renunciation of British subjecthood, and as a result, US citizens were pressed by the thousands into British military service during the Napoleonic Wars. This partly fuelled hostilities leading to the War of 1812. See Spiro (2002b, 5).

15 Though Canada began issuing passports after 1947, and Canadian citizenship was primary, Canadian citizens remained British subjects (Bloemraad 2007, 164). Canada's *Immigration Act, 1910*, did set out a definition of citizenship, but this was a mere statute that did not assign civil or political rights.

16 Multiple citizenship was evidently not a subject of parliamentary debate in 1976-77 and a database search of Canada's newspaper of record, the *Globe and Mail*, from the time turns up scarcely any mention of the issue.

17 For a recent discussion of noncitizen voting in local and even national elections, see Rodriguez (2010).

18 It is not clear how government officials determine one's intention to return to Canada before five years have elapsed. In any case, after five years abroad, the citizen must resume residence in Canada to lawfully exercise the franchise. Exceptions are made for members of the Canadian military and employees of the federal government.

19 See, generally, Bauböck (2007); Kull (2008).

20 See generally, Barry (2006).

21 See *Abdurahman Khadr v. Canada (Attorney General)*, 2006 FC 727; *Omar Khadr v. Canada*, 2009 FC 497; *Aabdelrazik v. Canada (Foreign Affairs)*, 2009 FC 580, 9 June 2009.

22 *Omar Khadr v. Canada (Minister of Foreign Affairs)*, 2004 FC 1184, 18 August 2004, para. 22. In *Khadr v. Canada (Prime Minister)*, 2009 FC 405, 23 April 2009, Justice O'Reilly ruled that the principles of fundamental justice under section 7 of the Charter "support the recognition of a duty to protect persons in Mr Khadr's circumstances as a principle of fundamental justice." The Supreme Court of Canada did not address this issue and based its ruling on other grounds.

23 *Andrews v. Law Society of British Columbia*, [1989] 1 SCR 143.

24 About 30,000 US soldiers are not US citizens. Approximately 5 percent of new recruits are noncitizens, and the US government offers noncitizen soldiers a "fast track" to citizenship (Meyer 2007).

25 Such concerns have driven parliamentary opposition to dual citizenship in the Netherlands; there is also a body of scholarly literature supporting this view in the US (Staton, Jackson, and Canache 2007).

26 For an insightful analysis of the historical and institutional reasons behind the variation in citizenship regimes among the 15 EU states, see Howard (2009).

27 There was one exception to the UK's liberalism on dual nationality, from 1870 to 1948. Through those years, the *Naturalization Act* required that women who married foreign nationals take on the nationality of their spouse, and foreign-national women who married British husbands became British nationals. Because the laws of other countries did not always dovetail with these rules, women were sometimes left stateless. This rule was abandoned with the *British Nationality Act* of 1948.

28 Recent French proposals to ban the wearing of the *niqab* in public and the similar Quebec draft legislation denying public services to *niqab*-wearing women raise further questions

about the relationship between religious practices and designation as a "good" or "bad" citizen.

29 In 2002, changes were made to immigration laws, targeting "marriages of convenience" and requiring that a person be married to a French national for two years before acquiring citizenship. Changes to the law in 2005 also strengthened the language requirement, with a view to facilitating integration. A recent court case denied French citizenship to an otherwise qualified Muslim applicant because she wore a veil that covered her face.

30 Foblets and Loones were writing before the changes in 2007. For the current law, see Belgium (n.d.).

31 Belgian citizenship will be lost when emigrating to other EU countries that have signed on to the aforementioned Council of Europe Convention on the Reduction of Cases of Multiple Nationality and on Military Obligations in Cases of Multiple Nationality. This includes a number of countries, in fact: Austria, Denmark, France, Ireland, Italy, Luxembourg, the Netherlands, Norway, Spain and the UK.

32 European Union Democracy Observatory on Citizenship n.d. "Law on Luxembourgish Nationality." Accessed June 14, 2010. http://eudo-citizenship.eu/national-citizenship-laws/?search=1&name=&year=&country=Luxembourg&submit=Search

33 There is no way to quickly summarize the subtle variations in nationality laws within the EU. There is little point to it either, as the laws are constantly changing. A good, concise treatment is Howard (2005). The European Union Democracy Observatory on Citizenship maintains an online website that posts "the most updated information on loss and acquisition of citizenship, national and international legal norms, citizenship statistics and bibliographical resources." See http://eudo-citizenship.eu/.

34 Exceptions are made in the cases of countries that refuse renunciation (e.g., Greece) and countries from which one has fled as a refugee, and in cases where it would be costly to renounce (Van Oers, De Hart, and Groenendijk 2006, 405).

35 "Submitting an application, making a declaration or explicitly giving one's consent in order to receive a foreign nationality is considered expression of such positive intent. Austrian nationality is not lost, however, if a foreign nationality is acquired because the Austrian nationality is acquired because the Austrian national did not object to the *automatic* acquisition, even if right to object to it is prescribed in foreign law" (Çinar and Waldrauch 2006, 34-5). See also Çinar (2009).

36 Access to the full panoply of EU citizenship entitlements has been delayed by certain member states in respect of citizens of the 10 new accession states, but in principle, the deferral is only temporary.

37 European Convention on Nationality, Strasbourg, 6.XI.1997, E.T.S. no. 166.

38 For further discussion of the EU states and EU citizenship, see Maas (2007); Howard (2005).

39 See, more generally, Griffiths (2009b). Griffiths then proposes a law that would prohibit Canadian citizens from acquiring another citizenship but would permit immigrants from other states to retain their original citizenship when they naturalize as Canadians.

40 Estimates of the number of noncitizens in the US military range from 29,000 to 45,000.

41 For studies focusing on the contemporary contribution of Canadian-Chinese professionals, see, for example, Lin (2008) and Zweig (2008).

42 DeVoretz estimates that almost 40 percent of Canadians abroad reside in the US, and of those residing in the US, about 13 percent are naturalized Canadians (2009b, 11-12).

43 We rely on data contained in Standing Senate Committee on Foreign Affairs and International Trade (2007).

44 The US and France evacuated around the same number (15,000). The next largest numbers of evacuations were effected by Sweden (8,400), Germany (6,300), Denmark (5,800), Australia (5,000) and the UK (4,600) (WorldReach 2007).

45 See the article by Luiza Savage (2006). Then-Conservative MP Garth Turner was especially vocal in his attack on so-called Canadians of convenience (see, for example, the entry on his blog in 2006).

46 See WorldReach (2007) for some of the difficulties encountered in proving citizenship.

47 The proposal to add a surcharge for passport renewal by nonresident citizens is advanced by John Chant (2006).

48 Provincial statutes requiring and entitling children to attend school do not distinguish between children based on legal status, although local practices may differ. The federal *Immigration and Refugee Protection Act* specifically entitles children of parents with temporary and permanent residence to the right to attend school. In the seminal case of *Plyer and Doe*, (1982) 457 US 202, the US Supreme Court struck down a Texas statute denying education funding for "illegal immigrant" children.

49 Some European states allow noncitizens to vote in municipal elections. The current mayor of Toronto, David Miller, supports extending to noncitizens the right to vote in Toronto municipal elections.

50 For that matter, the resident citizen tax evader is not deprived of the franchise — even if convicted and imprisoned for tax fraud!

51 Jack Mintz makes the argument for adopting the US model in Canada (2006).

52 Avi-Yonah concludes on this point that "although there are no data I am aware of, I am doubtful we collect much tax from nonresident citizens living permanently overseas. The cost of what we do collect is having to administer...a very complex provision [of US tax law] that imposes significant transaction costs on both taxpayers and the IRS" (2010, 10).

53 Michael Ignatieff spent approximately 30 years in the US and the UK but did not acquire citizenship of either state.

54 The various circumstances giving rise to these outcomes are described on the Lost Canadians Web site (http://blog.lostcanadian.com/2003/01/welcome-to-lost-canadians-website.html). See Chapman (2008); see also Edmonston (2007).

55 See Government of Canada (2009).

56 Only if the other parent is a *jus soli* Canadian citizen will a woman giving birth abroad be able to ensure that the child is Canadian.

57 As this paper was going to press, the Minister of Citizenship and Immigration, Jason Kenney, introduced a bill that would, inter alia, amend the *Citizenship Act* to clarify the requirement for physical presence ("Bill C37, An Act to Amend the Citizenship Act and to Make Consequential Amendments to another Act," first reading, June 2, 2010, s.3).

58 A survey of the judicial debate is provided in *Chen v. Canada (Minister of Citizenship and Immigration)*, [2001] 213 FTR 137.

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François Crépeau is Hans and Tamar Oppenheimer Professor of Public International Law at McGill University.

Audrey Macklin is a professor in the Faculty of Law at the University of Toronto.

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